

exceed \$250.00, the requester will be notified of the likely cost and will be required to provide satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or will be required to submit an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(2) A requester has previously failed to pay a fee charged in a timely fashion (i.e., within 30 days of the date of the billing). In such cases the requester may be required to pay the full amount owed plus any applicable interest as provided by paragraph (e) of this section, and to make an advance payment of the full amount of the estimated fee before the Office begins to process a new request.

(3) When the Office requests an advance payment of fees, the administrative time limits described in subsection (a)(6) of the FOIA will begin to run only after the Office has received the advance payment.

(d) *Billing and payment.* Normally the Office will require a requester to pay all fees before furnishing the requested records. However, the Office may send a bill along with, or following the furnishing of records, in cases where the requester has a history of prompt payment.

(e) *Interest charges.* Interest charges on an unpaid bill may be assessed starting on the 31st day following the day on which the billing was sent. Interest shall be at the rate prescribed in 31 U.S.C. 3717 and shall accrue from the date of billing. To collect unpaid bills, the Office will follow the provisions of the Debt Collection Act of 1982, as amended (96 Stat. 1749 *et seq.*) including the use of consumer reporting agencies, collection agencies, and offset.

### Subpart F—Annual Report to Congress

#### § 2604.601 Submission of report.

On or before March 1 of each calendar year, a report of OGE's activities over the preceding year relating to the Freedom of Information Act will be submitted to the Speaker of the House of Representatives and the President of the Senate.

#### § 2604.602 Contents of the report.

The annual report to Congress will include for the relevant reporting period:

(a) The number of FOIA requests made to OGE, determinations made by OGE not to comply with requests for records made to it under the FOIA and the reasons for each such determination;

(b) The number of appeals made by persons under the FOIA, the results of such appeals, and the reasons for the action by OGE upon each appeal that results in a denial of information;

(c) The names and titles or positions of each person responsible for the denial of records requested under the FOIA;

(d) The results of each proceeding conducted pursuant to subsection (a)(4)(F) of the FOIA, including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(e) A copy of every rule made by OGE regarding the FOIA;

(f) A copy of the fee schedule and the total amount of fees collected by OGE for making records available under the FOIA; and

(g) Such other information as indicates efforts by OGE to administer fully the FOIA.

### Subpart G—Fees for the Reproduction and Mailing of Public Financial Disclosure Reports

#### § 2604.701 Policy.

Fees for the reproduction and mailing of public financial disclosure reports (SF 278s) requested pursuant to section 105 of the Ethics in Government Act of 1978, as amended, and § 2634.603 of this chapter shall be assessed according to the schedule contained in § 2604.702. Requesters shall pay fees by check or money order made payable to the Treasury of the United States. Except as provided in § 2604.702(d), nothing concerning fees in subpart E of this part supersedes the charges set forth in this subpart for records covered in this subpart.

**§ 2604.702 Charges.**

(a) *Duplication.* Except as provided in paragraph (c) of this section, copies of public financial disclosure reports (SF 278s) requested pursuant to section 105 of the Ethics in Government Act of 1978, as amended, and § 2634.603 of this chapter will be provided upon payment of \$.03 per page furnished.

(b) *Mailing.* Except as provided in paragraph (c) of this section, the actual direct cost of mailing public financial disclosure reports will be charged for all forms requested. Where the Office elects to comply, as a matter of administrative discretion, with a request for special mailing services, the actual direct cost of such service will be charged.

(c) *De minimis fees.* The Office will not assess fees for individual requests if the total charge would be \$10.00 or less.

(d) *Miscellaneous fee provisions.* The miscellaneous fee provisions set forth in § 2604.504 apply to requests for public financial disclosure reports pursuant to § 2634.603 of this chapter.

**PART 2606—PRIVACY ACT RULES  
[RESERVED]**

**PART 2610—IMPLEMENTATION OF  
THE EQUAL ACCESS TO JUSTICE  
ACT**

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AUTHORITY: 5 U.S.C. 504(c)(1); 5 U.S.C. App. (Ethics in Government Act of 1978).

SOURCE: 57 FR 33268, July 28, 1992, unless otherwise noted.

**Subpart A—General Provisions**

**§ 2610.101 Definitions.**

(a) *Act* means the Equal Access to Justice Act, 5 U.S.C. 504, as amended.

(b) *Adjudicative officer* means the official, without regard to whether the official is designated as a hearing examiner, administrative law judge, administrative judge, or otherwise, who presided at the adversary adjudication.

(c) *Adversary adjudication* means:

(1) An adjudication under 5 U.S.C. 554 in which the position of the United States is represented by counsel or otherwise, but not including an adjudication for the purpose of establishing or fixing a rate or for the purpose of granting or renewing a license; and

(2) An appeal of a decision of a contracting officer made pursuant to section 6 of the Contracts Disputes Act of 1978 (41 U.S.C. 605) as provided in section 8 of that statute (41 U.S.C. 607).

(d) *Agency counsel* means:

(1) When the position of the Office is being represented, the attorney or attorneys designated by the Office's General Counsel to represent the Office in a proceeding covered by this part; and

(2) When the position of another agency of the United States is being represented, the representative or representatives as designated by that agency.

(e) *Office* means the United States Office of Government Ethics, or the organizational unit within the Office responsible for conducting an adversary adjudication subject to this part.